

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CHARITY HENNIG,)	CASE NO.
)	
Plaintiff,)	
)	
vs.)	NOTICE OF REMOVAL
)	WITH JURY TRIAL REQUESTED
MENARD, INC. dba MENARDS,)	IN OMAHA, NEBRASKA
)	
Defendant.)	

NOTICE OF REMOVAL

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA:

Defendant Menard, Inc. hereby gives notice of removal of this action to the United States District Court for the District of Nebraska, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. As grounds for this removal, the Defendant states as follows:

FACTUAL BACKGROUND

1. On or about February 4, 2022, Plaintiff Charity Hennig, filed her Complaint against Defendant Menard, Inc., in the District Court of Dodge County, Nebraska. A Civil Summons issued by the District Court of Dodge County was served on Defendant on February 7, 2022. As required by 28 U.S.C. § 1446(a), attached hereto collectively as “Exhibit A” and incorporated herein by this reference are copies of all process, pleadings, and orders, specifically including: the Complaint, the Praecept for Summons, the Summons, and the Service Return.

2. In her Complaint, Plaintiff asserts a claim for common-law negligence and/or gross negligence against Defendant for damages alleged to have been suffered in Nebraska. Further, Plaintiff alleges that Defendant is a foreign corporation, the owner of and/or doing business as a home improvement store open to the public located at 3600 E. 24th Street, Fremont, Dodge County, Nebraska.

SUBJECT MATTER JURISDICTION

3. This case is properly removable because the Complaint could have originally been filed in this Court pursuant to 28 U.S.C. § 1332(a), as the Court has original jurisdiction given that there is complete diversity between the parties and the amount in controversy exceeds \$75,000.

4. Plaintiff is a resident of Burt County, Nebraska.

5. Defendant is a foreign corporation, the owner of and/or doing business as a home improvement store open to the public known as Menards located at 3600 E. 24th Street, Fremont, Dodge County, Nebraska.

REMOVAL IS PROPER AND TIMELY

6. Pursuant to 28 U.S.C. § 1441(a), the United States District Court for the District of Nebraska is the federal district court embracing the place where the state action is pending.

7. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely since it is filed within 30 days of service of Plaintiff's Complaint on Defendant. Defendant was served on February 7, 2022, which is less than 30 days prior to the filing of this Notice of Removal.

NOTICE OF PETITION OF REMOVAL

8. Defendant will promptly provide Plaintiff with written notice of the filing of this Notice of Removal. Furthermore, Defendant will promptly file a copy of this Notice with the Clerk of the District Court of Dodge County.

RESERVATION OF RIGHTS

9. Defendant reserves all rights, defenses, and objections related to this action, including the timing of when discovery may be served. The filing of this Notice of Removal is subject to and does not waive any such rights, defenses, and/or objections. Defendant reserves the right to amend or supplement this Notice of Removal to the full extent allowed by law.

JURY REQUEST AND PLACE OF TRIAL

10. Defendant requests that this action be tried by jury, and that trial be held in Omaha, Nebraska.

WHEREFORE Defendant, having removed the case now pending in the District Court of Dodge County, Nebraska, No. CI 22-70, respectfully requests that this case proceed with adjudication before this Honorable Court as though Plaintiff had originally filed it in this Court.

Dated this 15th day of February, 2022.

MENARD, INC., Defendant

By: Baylor Evnen, LLP
Wells Fargo Center
1248 "O" Street, Ste. 600
Lincoln, NE 685-8
(402) 475-1075
aweeks@baylorevnen.com

By: /s/ Andrew D. Weeks
Andrew D. Weeks, #22733

CERTIFICATE OF SERVICE

I hereby do certify that I am one of the attorneys of record for the Defendant, and that on the 15th day of February, 2022, I served a copy of the foregoing Notice of Filing Notice of Removal by email on:

Stephen L. Gerdes
Law Office of Steve Gerdes
11920 Burt St., Suite 145
Omaha, NE 68154-1574
slgerdes@fastmail.fm

By: /s/ Andrew D. Weeks
Andrew D. Weeks, #22733